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10/686,705	10/17/2003	Yuiji Sawanaga	243643US-2TTC	8805
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				NGUYEN, TRAN N
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/686,705	SAWANAGA ET AL.	
	Examiner	Art Unit	
	Tran Nguyen	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 May 2009.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2,6,7,9-23,25-31,33-38,49 and 50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2,6,7,9-23,25-31,33-38,49 and 50 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Notice to Applicant

This communication is in response to the communication filed 05/26/2009.

Pending claim(s): 1-2, 6-7, 9-23, 25-31, 33-38, 49-50. Cancelled claim(s): 3-5, 8, 24, 32, 39-48. New claim(s): 49-50. Amended claim(s): 1, 14, 22, 31, 33-38.

Response to Amendment

As per the Office Action mailed 01/26/2009:

The rejection of claims 14-15, 22 under 35 USC 112, second paragraph is hereby withdrawn in view of Applicant's amendment to claims 14, 22.

The rejection of claims 1-2, 6-7, 9-23, 25-31, 33-38, 49-50 under 35 USC 101 is hereby maintained in view of Applicant's failure to adequately traverse this rejection.

Claim Objections

Claim 50 is objected to because of the following informalities: the acronym "CT" may subject the claim to alternate interpretations.

Appropriate correction is requested.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim(s) 1-2, 6-7, 9-23, 25-31, 33-38, 49-50 is/are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As per claim 1, this claim recites "a medical equipment management apparatus" comprising a plurality of "units".

Examiner, in applying the broadest and most reasonable interpretation in view of the specification and the level of ordinary skill in the art, interprets "unit" to encompass software *per se* embodiments. While Examiner acknowledges that "unit" may also encompass statutory embodiments, the inclusion of nonstatutory embodiments renders the entire claim nonstatutory.

Therefore, claim 1 recites an apparatus comprising at least some software *per se* structural limitations, and is found to be directed towards nonstatutory subject matter.

All claims dependent thereon, namely claims 2, 6-7, 9-23, 25-30, 49-50 fail to remedy these deficiencies, and are therefore rejected for at least the same rationale above, and incorporated herein.

As per claim 31, this claim is rejected for substantially the same rationale as applied to claim 1 above, and incorporated herein.

In particular, this claim recites:

- “a second reception unit... configured to receive a reference request for the date from a computer”;
- “a providing unit... configured to allow the computer to refer to information”.

While Examiner acknowledges that the claim recites a "computer", Examiner submits that the computer is not a claimed structure of the claimed apparatus.

Insofar as the "computer" is concerned, Examiner interprets this limitation to recite a functional limitation of the claimed apparatus.

As per claim 33, based on Supreme Court precedent and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to a machine or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *In re Bilski et al*, 88 USPQ 2d 1385 CAFC (2008); *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876).

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a statutory process, the claim should positively recite the particular machine to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively

recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

First, although the claim requires storing data in a medical equipment device, the remaining steps do not require the particulars of a “machine”. Therefore, any structure capable of performing the recited functionality may be reasonably interpreted to be enveloped by the claim.

The storing steps amount to nominal recitation of hardware at best. The remaining essential steps of the claim do not require a machine.

Second, while Examiner acknowledges that the claim recites “issuing a notification message”, this limitation amounts to mere data transformation at best, and does not produce a physical “transformation”.

Therefore, the claim fails the “machine or transformation” test, and is found to be directed towards nonstatutory subject matter.

As per claim 34, this claim is rejected for substantially the same rationale as applied to claim 33 above, and incorporated herein.

As per claim 35, Examiner acknowledges that this claim recites “a computer”; however, as discussed with respect to claim 33 above, the essential method steps do not require any particular “machine”, and therefore encompasses any structure capable of interfacing with the recited “computer”. In particular, the “calculating” and “determining” steps are performed without any recited structure.

Therefore, claim 35 fails the “machine or transformation” test.

As per claim 36, this claim is rejected for substantially the same rationale as applied to claim 1 above, and incorporated herein.

While Examiner acknowledges that the claim recites a “system” comprising a plurality of “apparatus” limitations, the claim does not recite any structure for these “apparatus” limitations.

Therefore, Examiner interprets “apparatus” to broadly encompass any structure capable of performing the recited functionality.

As discussed with respect to claim 1 above, Applicant is requested to provide a controlling definition for “apparatus” either from the specification as originally filed or from the level of ordinary skill in the art at filing.

Failing this, Applicant is suggested to amend the claim to recite hardware structures.

As per claim 37, this claim is similarly analyzed. In particular, “equipment” has not been defined as hardware equipment.

As per claim 38, this claim is rejected for substantially the same rationale as applied to claim 1 above, and incorporated herein.

Additional clarification is requested.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim(s) 1-2, 6-7, 9-17, 25, 27-28, 30, 33-34, 36-37, 49 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Friz (5786994) in view of McCormick (5706411).

As per claim 1, Friz teaches a performance monitoring system (Abstract) capable of monitoring a medical imaging system (reads on "a medical equipment management apparatus for managing a medical equipment") (column 1 line 11 and throughout), wherein the medical imaging system is located in a hospital (reads on "a medical facility) (column 2 line 50-51) and is capable of communicating with the remote performance monitoring system over modem (reads on "a network") (Figure 3 label 48),

the system comprising:

(a) software (reads on “a reception unit”) capable of:

(i) communicating with the medical imaging system over modem (Figure 3 label 46);

(ii) receiving data descriptive of the medical imaging system located at the hospital (reads on "parameter data") (Figure 3 label 46);

(b) memory (reads on “a storage unit”) capable of communicating with the medical imaging system (Figure 3 label 48) and storing the received data (Figure 3 label 50);

(c) software (reads on “a prediction unit”) capable communicating with the medical imaging system over modem (Figure 3 label 48) and predicting a future status of the medical imaging system based on the current data (Figure 3 label 54, 56).

In particular, Friz teaches that the system is capable of logging many types of errors (column 11 line 63-64).

According to Friz, the system is capable of determining when the system is out of paper, as discussed above and incorporated herein.

Therefore, Friz implicitly teaches that the system is capable of receiving an error message when the paper supply is depleted.

To make this teaching explicit, McCormick teaches that a “Paper Out” error is well known for printers (column 1 line 44).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the teachings of McCormick within the embodiment of

Friz with the motivation of sending a media out error message when the imaging device is depleted of media.

Friz further teaches:

(d) software (reads on “a determination unit”) capable of communicating with the medical imaging system over modem (Figure 3 label 48), wherein the software is capable of determining the future status of the medical imaging comprising:

(i) determining that the medical imaging system will run out of media by comparing the current data against a media threshold (reads on "a first predetermined threshold level") (column 15 line 4-10);

(ii) determining that the medical imaging system will be in an erroneous state by comparing the frequency of each type of error against a threshold (reads on “a second predetermined threshold level”, wherein an error is more serious than a refill order, and is therefore considered to be “exceeding the first threshold level”) (column 15 line 34-53);

(e) software (reads on “a second reception unit”) capable of communicating with the medical imaging system over modem (Figure 3 label 48) and providing a user with a usage report (Figure 3 label 54) and an error report (Figure 3 label 56) (reads on “a reference request for the expectancy”);

(f) software (reads on “a providing unit”) capable of communicating with the medical imaging system over modem (Figure 3 label 48) and providing the user with the usage report and error report (Figure 3 label 54, 56);

(g) software capable of ordering media (reads on “a notification message via the network to a first address”) when the media is low (reads on “the expectancy is determined to be between the first threshold level and the second threshold level”) (Figure 3 label 62) and ordering a technician (reads on "a second address") when the frequency of a particular error indicates impending failure (reads on "the expectancy is determined to exceed the second threshold") (Figure 3 label 60).

In particular, the combination of McCormick and Friz suggest a “Paper Out” error, as discussed above and incorporated herein.

As per claim 2, Friz teaches that the software is capable of ordering a technician service call (Figure 3 label 60).

As per claim 6, Friz teaches graphically displaying (reads on “a graph”) the media usage report and the error report containing therein timestamps (reads on “chronological order”) (Figure 8-9).

As per claim 7, Friz teaches displaying a media usage report (column 15 line 14-33) separately from the request to order media (column 12 line 26-30). Similarly, Friz further teaches displaying an error report containing thereon recorded errors to supplement the technician order (column 15 line 33-61).

As per claim 9, Friz teaches sending a media order request when the media is low and no error (reads on "when the expectancy is determined to be between the first threshold level and the second threshold level), and a technician request when there is an impending fatal error (reads on "when the expectancy is determined to exceed the second threshold level"), as discussed above and incorporated herein.

As per claim 10, Friz teaches a media order (reads on "without urgency" wherein the imaging system will continue to operate on low media) and a technician order (reads on "an urgent maintenance service" wherein an impending fatal error will prevent the imaging system from being used), as discussed above and incorporated herein.

As per claim 11, Friz teaches comparing the media usage value to a threshold (column 15 line 6) and the error frequency to a threshold (column 15 line 49-53).

Examiner considers comparing a known value to a threshold to predict the future status of the value to be "statistically analyzing".

As per claim 12, Friz teaches storing data at different time intervals (column 11 line 45-65).

As per claim 13, Friz teaches media usage (Figure 8) and at least one machine component error (Figure 9 label ERROR DESCRIPTOR).

As per claim 14, Friz teaches that if no intervening action is taken, the imaging system will reach a certain condition, e.g. out of media, unusable (column 11 line 10-15, column 15 line 34-61).

As per claim 15, Friz teaches that the future condition of the imaging system may be predicted (reads on "the predetermined time is designated"), as discussed above and incorporated herein.

As per claim 16, Friz teaches that the system is capable of providing the media and technician orders (reads on "expectancy") through a computer network (Figure 3 label 60, 62).

As per claim 17, this claim is rejected for substantially the same rationale as applied to claim 16 above, and incorporated herein.

In particular, the "expectancy" *per se* is considered to be "information of the medical equipment". Therefore, the applied art need not teach any additional information to meet this limitation.

As per claim 25, Friz teaches that a technician is capable of obtaining system data (column 15 line 54-61).

As per the set of claim(s): 27, this set of claim is rejected for substantially the same rationale as applied to the rejection of the set of claim(s): 25, respectively, and incorporated herein.

In particular, Examiner considers the technician system to be part of the remote performance monitoring system, and is therefore considered to be “a computer provided in the apparatus”.

As per the set of claim(s): 28, this set of claim is rejected for substantially the same rationale as applied to the rejection of the set of claim(s): 6, respectively, and incorporated herein.

As per claim 30, Friz teaches periodically polling the equipment (column 3 line 23-33).

As per the set of claim(s): 33, 34, 36, 37, this set of claim is rejected for substantially the same rationale as applied to the rejection of the set of claim(s): 1, 1, 1, 1, respectively, and incorporated herein.

As per claim 49, Friz teaches email (column 12 line 16).

Claim(s) 18, 29 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Friz in view of McCormick as applied to parent claims 16, 1 above, and further in view of Applicant Admitted Prior Art (AAPA).

It is noted that the official notice taken in the previous Office Action is taken to be AAPA because Applicant failed to adequately traverse Examiner's assertion.

As per claim 18, Friz and McCormick do not teach "an Internet web site".

AAPA teaches that displaying data on a Web site accessible via the Internet is old and well established in any art.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the teachings of AAPA within the embodiment of Friz and McCormick with the motivation of providing accessible data to remote computers.

As per claim 29, Friz teaches that manual generation of reports by a technician is known in the art (column 3 line 31-32). Friz further teaches automatic periodic polling to eliminate the need for manual report generation (column 3 line 23-33).

Friz and McCormick do not teach "calculates the expectancy in response to the reception of the reference request".

AAPA teaches that during machine maintenance, it is old and well established in the art to manually run a status report between periodic polling periods.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the teachings of AAPA within the embodiment of Friz

with the motivation of obtaining the most current equipment status before the next polling period, such feature would be useful when performing diagnostics or generating management reports, wherein the status is desired immediately before the next polling interval.

Claim(s) 19, 21-23 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Friz in view of McCormick as applied to parent claim 1 above, and further in view of Lie (An Algorithm for Preventive Maintenance Policy, mailed 01/26/2009).

As per claim 19, Friz teaches that the system is capable of determining the future status of the imaging system by comparing the error frequency against a threshold to prospectively identify errors and correct them before the user is affected (column 15 line 34-61).

Examiner considers this type of maintenance to be "preventive maintenance", wherein the system is repair prior to any user complaint.

Friz and McCormick do not teach "determines the value based on the stored maintenance contract information".

Lie teaches two types of preventive maintenance: 1P and 2P (page 71 column 1 paragraph 2). Lie further teaches that the optimum preventive maintenance policy comprises doing 1P maintenance until a particular time, and then switching to 2P maintenance (page 74 section 2.5).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the teachings of Lie within the embodiment of Friz and McCormick with the motivation of providing the optimum preventive maintenance policy (Lie; page 74 section 2.5).

As per the set of claim(s): 21, this set of claim is rejected for substantially the same rationale as applied to the rejection of the set of claim(s): 19, respectively, and incorporated herein.

As per claim 22, Friz teaches reporting errors and ordering technician service, as discussed above and incorporated herein.

Friz and McCormick do not teach:

- (a) "a first content when the stored maintenance information is a first type and the expectancy is determined to exceed the second threshold level";
- (b) "a second content when the stored maintenance information is the first type and the expectancy is determined to be between the first threshold level and the second threshold level";
- (c) "a third content when the stored maintenance contract information is a second type and the expectancy is determined to exceed the second threshold level";
- (d) "does not issue the notification message when the stored maintenance contract information is the second type and the expectancy is determined to be between the first threshold level and the second threshold level".

Lie teaches preventive maintenance when the system is operating (reads on "a first threshold level") and corrective maintenance when the system is failed (reads on "a second threshold level") (page 71 column 1 Section 1 paragraph 2).

Examiner considers the status of a system requiring corrective maintenance to "exceed" the status off a system requiring only preventive maintenance because the failed system is failed, and is considered to be more serious than a system requiring only routine maintenance.

Lie further teaches:

(a) issuing a corrective maintenance request (reads on "a first content when the stored maintenance information is a first type and the expectancy is determined to exceed the second threshold level") (page 71 column 1 Section 1 paragraph 3-4);

(b) issuing a preventive maintenance request when the system is in a 2P state (reads on "a second content when the stored maintenance information is the first type and the expectancy is determined to be between the first threshold level and the second threshold level") (page 71 column 2 paragraph 1-2);

(c) issuing a simple preventive maintenance request when the system is in a 1P state (reads on "a third content when the stored maintenance contract information is a second type and the expectancy is determined to exceed the second threshold level") (page 71 column 2 paragraph 1-2);

(d) the system omitting some service requests when the system is in a 1P state (reads on "does not issue the notification message when the stored maintenance

contract information is the second type and the expectancy is determined to be between the first threshold level and the second threshold level").

In particular, Examiner considers the 2P state to be "a first type" and the 1P state to be "a second type". Accordingly, the 1P service request omits some elements that would otherwise be covered in the 2P service request.

Additionally, the claim does not require that the "first", "second", and "third" content actually be different content. Therefore, a single content alone would cover all claimed embodiments regardless of the state of the expectancy and the contract information.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the teachings of Lie within the embodiment of Friz and McCormick with the motivation of providing the optimum preventive maintenance policy (Lie; page 74 section 2.5).

As per the set of claim(s): 23, this set of claim is rejected for substantially the same rationale as applied to the rejection of the set of claim(s): 22, respectively, and incorporated herein.

In particular, Examiner considers the 1P and 2P states to be "a determining condition", wherein the system switches from one to the other and affects the type of service requests recorded by the system (Lie; page 74 column 1 Section 2.5).

Claim(s) 20 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Friz in view of McCormick and Lie as applied to parent claim 19 above, and further in view of Babula (6381557).

As per claim 20, Friz, McCormick, and Lie do not teach "an external terminal". Babula teaches a field service unit capable of accessing service data (Figure 5). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the teachings of Babula within the embodiment of Friz, McCormick, and Lie with the motivation of enabling technicians to adjust the maintenance policy remotely.

Claim(s) 26 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Friz in view of McCormick as applied to parent claim 1 above, and further in view of Babula.

As per claim 26, Friz teaches that the performance monitoring system is remote from the imaging system (Figure 3 label 46).

Friz and McCormick do not teach "a computer provided in the medical facility". Babula teaches a field service unit capable of accessing service data (Figure 5). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the teachings of Babula within the embodiment of Friz

and McCormick with the motivation of enabling technicians to adjust the maintenance policy remotely.

Claim(s) 31, 35, 38 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Ridolfo (6735549) in view of Friz and Mairs (5874960).

As per claim 31, Ridolfo teaches a system capable of predicting the date of failure for plant equipment over a network (Figure 2 label 7).

Ridolfo does not teach “medical equipment”.

Friz teaches predicting the error conditions of medical imager (Abstract and throughout).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the teachings of Friz within the embodiment of Ridolfo with the motivation of ensuring that equipment is repaired, refurbished, or replaced before the equipment fails (Ridolfo; column 5 line 7-14, Friz; column 15 line 54-57).

Ridolfo further teaches that the system comprises:

- (a) a data acquisition system (reads on "a reception unit") capable of accessing the plant equipment over network (reads on "receive parameter data") (Figure 2 label 2);
- (b) a digital computer (reads on "a storing unit") capable of storing the acquired data (Figure 2 label 3);

(c) a probability-of-failure predictor module (reads on “a prediction unit”) capable of communicating with the network and predicting the probability of failure based on the acquired data (Figure 2 label 5);

(d) a date-of-failure predictor module (reads on “a determination unit”) capable of communicating with the network and determining the date when the plant equipment is predicted to fail (Figure 2 label 6);

(e) an engineering workstation capable of requesting the date of failure via the network (Figure 2 label 8);

(f) software capable of providing the date (Figure 2 label 6);

(g) a video display unit capable of displaying the date (Figure 2 label 8).

Ridolfo and Friz do not teach “a second computer”.

Mairs teaches a remote desktop application capable of sharing an application between a plurality of computers (Abstract and throughout).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the teachings of Mairs within the embodiment of Ridolfo and Friz with the motivation of sharing an application with a remote user at a shadow computer system (Mairs; column 1 line 20-23).

As per the set of claim(s): 35, 38, this set of claim is rejected for substantially the same rationale as applied to the rejection of the set of claim(s): 31, 31, respectively, and incorporated herein.

Claim 50 is rejected under 35 USC 103(a) as being unpatentable over Friz in view of McCormick as applied to parent claim 1 above, and further in view of Ricq (Study of CdTe and CdZnTe detectors for X-ray computed tomography).

As per claim 50, Friz teaches CT machine (column 6 line 64). Friz further teaches monitoring errors in any part of the system operation, as discussed above and incorporated herein.

Friz and McCormick do not teach “a bias voltage level”.

Ricq teaches that a bias voltage level is well known in the art as affecting the operation of a CT machine (page 537 column 1 paragraph 2 and throughout).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the teachings of Ricq within the embodiment of Friz and McCormick with the motivation of monitoring CT machine operation.

Response to Arguments

Applicant's arguments filed 05/26/2009 have been fully considered but they are not persuasive.

On page 14 Applicant argues:

In response to the rejection of Claims 1-2, 6-7, 9-23, 25-31, and 33-38 under 35 U.S.C. § 101, Applicants have amended Claims 1, 31, and 33-38 in accordance with the suggestions set forth in the outstanding Office Action. Specifically, Claim 1 has been amended to clarify that the claim is directed to an apparatus ,and is not directed towards software per se. In addition, Claim 33 has been amended to clarify that the method of managing medical equipment is tied to a particular device, and thus is statutory in view of the recent Federal Circuit case, *In re Bilski*.

As discussed in the section above, claim 1 envelops software *per se* that has not been positively recited as stored on tangible structure.

Similarly, the essential steps in claim 33 do not require a machine, as discussed above, and incorporated herein.

Applicant's arguments with respect to claims 1, 31, 33-38 on page 15-17 have been considered but are moot in view of the new ground(s) of rejection.

On page 17 Applicant argues:

In regard to the rejection of Claims 31, 35, and 38 under 35 U.S.C. § 103(s) as unpatentable over Ridolfo in view of Fritz and Mairs, Claims 31, 35, and 38 are believed to be patentable for at least the reasons discussed above. Further, Applicants respectfully submit that Ridolfo and Mairs fail to cure any of the above-noted deficiencies of Fritz.

First, Applicant makes arguments directed towards features of claim 1 that are not claimed in claims 31, 35, 38. Therefore, it is not clear how these arguments are applicable to claims 31, 35, 38.

Second, the features of claim 1 that do appear in claims 31, 35, 38 argued by Applicant as not being taught by Friz are taught by the other applied art. See the section above.

Conclusion

The new ground(s) of rejection presented in this Office action, if any, was/were necessitated by Applicant's amendment. Accordingly, **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tran (Ken) N. Nguyen whose telephone number is 571-270-1310. The examiner can normally be reached on Monday - Friday, 9:00 am - 5:00 pm Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, C. Luke Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. N./
Examiner, Art Unit 3626
09/14/2009

/C. Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626